

The Board of Councilors also adopted a plan for a system of "follow up" letters and a collection bureau, after a plan devised by the Secretary of the Association.

Each member of the Association was given twenty-five of each of the five letters and a booklet containing form blanks for notations, claim forwarding and delinquent blanks.

It is hoped the system will prove of real value and, if so, a report thereon will be made at the next meeting of the State Medical Society.

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In preparation for the meeting of the American Medical Association, which will be held in Los Angeles in June, 1911, the following committees have been appointed. The general chairman will be Dr. A. Bert Ellis, and the general secretary Dr. George H. Kress:

**1. Executive Committee.**

Dr. H. Bert Ellis, chairman; Dr. Walter Lindley, treasurer; Dr. George H. Kress, secretary; Dr. W. Jarvis Barlow, Dr. Fitch C. E. Mattison, and the chairman of each standing committee.

**2. Finance Committee (Incomplete).**

Dr. Fitch C. E. Mattison, chairman; Dr. Chas. Bryson, secretary; Dr. W. T. McArthur, treasurer. District Finance Chairmen—Pasadena, Dr. H. H. Sherck; Pomona, Dr. Frank Garcelon; Santa Monica, Dr. W. H. Kiger; Long Beach, Dr. A. C. Sellery.

**3. Committee on Bureau of Information.**

(Incomplete).

Dr. J. Y. Oldham, chairman; Dr. Rea Smith, Dr. R. F. Hastreiter, Dr. C. H. Whitman.

**4. Committee on Reception at R. R. Stations.**

(Incomplete).

Dr. W. R. Molony, chairman; Dr. George A. Laubersheimer, Dr. G. A. Scroggs, Dr. E. J. Cook, Dr. Raymond G. Taylor.

**5. Committee on Hotels and Headquarters.**

(Incomplete).

Dr. W. LeMoyne Wills, chairman; Dr. Titian J. Coffey, Dr. E. A. Bryant, Dr. A. L. Macleish.

**6. Committee on Halls (Incomplete).**

Dr. John T. Ferbert, chairman; Dr. Fred C. Bicknell, vice-chairman; Dr. E. W. Fleming, vice-chairman; Dr. Wm. Dodge, vice-chairman.

**7. Committee on Section Meetings Places.**

(Incomplete).

Dr. Albert Soiland, chairman; Dr. Clarence W. Pierce, Dr. Fred C. Shurtleff; Section on Practice Medicine, Dr. Dudley Fulton; Section on Surgery, Dr. E. R. Smith; Section on Obstetrics, Dr. M. L. Moore; Section on Diseases of Women, Dr. Carl Kurtz; Section on Ophthalmology, Dr. T. J. McCoy; Section on Laryngology and Otology, Dr. Hill Hastings; Section on Nervous and Mental Diseases, Dr. H. G. Brainerd; Section on Preventive Medicine and Public Health, Dr. L. M. Powers; Section on Diseases of Children, Dr. L. M. Moore; Section on Pharmacology and Therapeutics, Dr. Theodore G. Davis; Section on Dermatology, Dr. Ralph Williams; Section on Pathology and Physiology, Dr. John C. Colliver; Section on Stomatology, Dr. Frank Cók.

**8. Committee on Post-Office, Telephones, etc.**

(Incomplete).

Dr. C. B. Nichols, chairman; Dr. A. C. Rogers, Dr. Guy Cochran.

**9. Committee on Registration of the Los Angeles Members (Incomplete).**

Dr. W. W. Beckett, chairman; Dr. H. M. Voorhees, Dr. H. G. Marxmiller, Dr. E. M. Lazard.

**10. Committee on Registration of California Members (Incomplete).**

Dr. Jos. M. King, chairman; Dr. Langley Porter, Dr. Herbert P. Barton, Dr. W. W. Hitchcock.

**11. Committee on Commercial Exhibit (Incomplete).**

Dr. W. H. Kiger, chairman; Dr. Chas. E. Zerfing, Dr. E. T. Dillon.

**12. Committee on Printing (Incomplete).**

Dr. J. H. Seymour, chairman; Dr. C. C. Browning, Dr. J. S. Hall.

**13. Committee on Program (Incomplete).**

Dr. O. O. Witherbee, chairman; Dr. E. Clarence Moore, Dr. Frank D. Bullard.

**14. Committee on Badges (Incomplete).**

Dr. F. M. Pottenger, chairman; Dr. James T. Fisher, Dr. F. W. Steaddon.

**15. Committee on Non-Affiliated Associations.**

(Incomplete).

Dr. Granville MacGowan, chairman; Dr. J. H. McBride, Dr. W. H. Roberts, Dr. Henry Stchman.

**16. Committee on Entertainments (Incomplete).**

Dr. Chas. W. Bryson, chairman; Dr. P. C. H. Pahl, Dr. A. T. Newcomb.

**17. Committee on Section Entertainments.**

(Incomplete).

Dr. Andrew Stewart Lobingier, chairman; Dr. W. W. Richardson, Dr. W. M. Lewis.

**18. Committee on President's Reception.**

(Incomplete).

Dr. W. Jarvis Barlow, chairman; Dr. Norman Bridge, Dr. Wm. A. Edwards, Dr. Milbank Johnson.

**19. Committee on Press and Publicity (Incomplete).**

Dr. George H. Kress, chairman; Dr. Walter Lindley, Dr. Wm. Duffield, Dr. P. G. Cotter.

**20. Assistant Editor of the Bulletin (Incomplete).**

Dr. Donald J. Frick.

**21. Committee on Scientific Exhibit (Incomplete).**

(Appointed by the American Medical Association Committee.) Dr. Stanley P. Black, Los Angeles representative.

**22. Committee on Reception to Ladies (Incomplete).**

(To be appointed.)

## THE MEDICAL LAW.

(The attorney for the State Board of Medical Examiners has carefully prepared the following statement of facts relating to the medical law and the procedure under it, with the various citations of cases and decisions sustaining its provisions. It is the desire of the Board that copies of this document be placed in the hands of all judges in the state, and of all prosecuting attorneys so that they may very readily be able to look up any particular point concerning the law or the method of procedure.

Reprints of this document may be had upon application to the Secretary of the Society, Dr. Philip Mills Jones, Butler Building, San Francisco.)

## THE STATUTE REGULATING THE PRACTICE OF MEDICINE IN CALIFORNIA IS A PROPER EXERCISE OF THE POLICE POWER.

The constitutionality and regularity of this statute (See Cal. Stat., 1907, p. 255 and amendment, 1909, p. 418), has been fully tested and upheld by decisions of our court of last resort. Any attack upon the validity of the statute itself may be answered by reference to the following cases decided in the California courts, to which are appended some cases from other states having a similar statute:

Ex Parte Gerino, 143 Cal., 412;  
Ex Parte Frazer, 54 Cal., 94;  
People vs. Boo Doo Hong, 122 Cal., 606;  
Ex Parte McNulty, 77 Cal., 164;

In re Bulger In re Merrill, 45 Cal., 553.  
 Ex Parte Whitley, 144 Cal., 167;  
 Arwine vs. Bd. of Med. Examners., 91  
 Pac. (Cal.), 319;  
 De Yoe vs. Superior Court, 140 Cal., 476.  
 Iowa Ec. Med. Assn. vs. Schrader, 20 L.  
 R. A., 259;  
 Dent vs. West Virginia, 129 U. S., 114;  
 State Bd. vs. Fowler, 50 La. Ann., 1358;  
 Scholle vs. The State, 90 Md., 729; 50  
 L. R. A., 411;  
 People vs. Fulda, 52 Hun., 65; 4 N. Y.  
 Supp., 945;  
 Board of Med. Examiners vs. Fowler, 24  
 South, 809;  
 State vs. Davis, 92 S. W., 407;  
 Antle vs. State, 6 Tex. Crim. App., 302.

#### PROCEDURE.

In drawing the complaint it will be sufficient to follow the language of the statute (See Stat. 1907, p. 257), Sec. 13, which reads as follows:

"Any person who shall practice or attempt to practice or advertise or hold himself out as practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without having, at the time of so doing, a valid, unrevoked, certificate, as provided in this act, shall be guilty of a misdemeanor . . ."

In the case of Boo Doo Hong the complaint, which followed the wording of the then statute closely, was approved: "Wilfully and unlawfully practicing medicine in the State of California without having first procured a certificate to so practice as required by law" (122 Cal., p. 607).

The negative fact—that the defendant *does not have* a certificate—while it must be alleged, need not be proved the burden is upon the defendant:

" . . . the burden is upon the defendant to show that he has a certificate to practice medicine as provided by law, and, if he failed to prove that he had such certificate, then it must be taken as true that he had not procured a certificate to practice medicine."

Ex Parte Boo Doo Hong, 122 Cal., 606.

To the same effect see

Williams vs. People, 20 Ill. App., 92;  
 Benham vs. State, 116 Ind., 112;  
 People vs. Nyce, 34 Hun., 298 (N. Y.).  
 People vs. Fulda, 52 Hun., 65; 4 N. Y.  
 Supp., 945.

Issuing signed circulars and testimonials:

Benham vs. State 116 Ind., 112; 18 N. E.  
 454.

Exhibiting a sign as "Dr. \_\_\_\_\_, magnetic healer," being called to visit sick persons and treating them, and making certificate of death and practitioners' sworn statement.

People vs. Phippin, 70 Mich., 6; 37 N.  
 W., 888.

State need not prove actual receipt of compensation,  
 State vs. Hale, 15 Mo., 607 (Reprint 407).

Attending a single case and holding oneself out to the community as a physician.

Antle vs. State, 6 Tex. Crim. App., 202.

#### EXCEPTIONS.

The legislature of California has enacted laws regulating the practice of certain forms of manual treatment for the sick and providing for certificates to practice. Osteopaths and naturopaths, *holding certificates*, may practice.

Stat. 1909, p. 418.

Stat. 1907, p. 259.

Section 17 (Stat. 1907, p. 259), contains the following:

"Nor shall this act be construed so as to discriminate against any particular school of medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, or to interfere in any way with the practice of religion; provided, that nothing herein shall be held to apply to, or to regulate, any kind of treatment by prayer."

#### DEFINITIONS—SPECIFIC ACTS.

What constitutes the practice of medicine, and what acts constitute a violation of statutes, similar to ours, regulating the practice of medicine, has been judicially determined. Some cases are here given.

"The practice of medicine may be said to consist in three things: First, in judging the nature, character and symptoms of the disease; Second, in determining the proper remedy for the disease; Third, in giving or prescribing the application of the remedy to the disease."

Underwood vs. Scott, 23 South (Kan.,  
 1890), 942.

"Medicine, in its ordinary sense, as applied to human ailments, means something which is administered, either internally or externally, in the treatment of disease, or the relief of sickness. It may be applied externally and it need not necessarily be a substance which may be seen and handled. It may consist of electricity conveyed by instruments or the human hand. And he whose profession it is to prescribe and administer this, after diagnosing the complaint, is a physician as commonly and ordinarily understood. Thus, the statute would include what is known as a medical clairvoyant who visits sick patients, examines their condition, determines the nature of the disease, and prescribes the remedies deemed most appropriate."

Kansas City vs. Baird, 92 Mo. App., 208.

Among those acts which have been judicially declared to be violations of statutes regulating the practice of medicine, are the following:

The assignee of a patent medicine cannot administer it for a fee, unless he is licensed to practice.

Thompson vs. Staats, 15 Wend. (N. Y.),  
 395;

Jordan vs. Overseers of Dayton, 4 Ohio  
 (4 Ham.), 294.

Attending and prescribing, and holding oneself out as competent to prescribe.

State vs. Van Doran, 109 N. C., 864;  
 14 S. E., 32.

Treating a particular person for a certain disease and receiving pay therefor.

Richardson vs. State, 47 Ark., 502; 2 S.  
 W., 187.